

EXHIBIT C

In The Matter Of:
UNITED STATES OF AMERICA, v.
MICHAEL AVENATTI

January 27, 2020

Southern District Court Reporters

Original File K1RDAVEVDF.txt
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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

2 -----x
3 UNITED STATES OF AMERICA,

4 v.

19 CR 373 (PGG)

5 MICHAEL AVENATTI,

6 Defendant.

Voir Dire

7 -----x
8 New York, N.Y.
9 January 27, 2020
10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 11:00 a.m.

Before:

HON. PAUL G. GARDEPHE,

District Judge
-and a Jury-

APPEARANCES

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United States Attorney for the
Southern District of New York
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DANIEL RICHENTHAL
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Assistant United States Attorneys

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-and-

RENATO STABILE

Also Present:
DeLeassa Penland, Special Agent (USAO)
Andrew Hamilton, Paralegal
Juliana Manrique, Paralegal
Michael Dunlavy

Michael Lyon, Trial Technician

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1 THE COURT: Good morning, ladies and gentlemen. I
2 want to thank you each of you for being here this morning. My
3 name is Paul Gardephe and I'm the judge who will preside over
4 the trial for which you have been summoned. We are choosing
5 jurors for a criminal case that involves charges of extortion
6 and honest services wire fraud.

7 The defendant, Michael Avenatti, is a lawyer and a
8 member of the California bar. I expect that during the trial
9 the government will offer evidence that in March 2019, one of
10 Mr. Avenatti's clients told him that certain employees of Nike,
11 Inc., the athletic apparel company, had made illicit payments
12 to the families of certain highly ranked high school basketball
13 prospects. At issue in this case are certain communications
14 between Mr. Avenatti and representatives of Nike about the
15 client's allegations.

16 The indictment against Mr. Avenatti contains three
17 charges or counts.

18 Count One charges Mr. Avenatti with transmitting
19 interstate communications with intent to extort. The
20 government claims that Mr. Avenatti transmitted in interstate
21 commerce threats to cause financial harm to Nike and its
22 reputation if Nike did not agree to make multimillion dollar
23 payments to Mr. Avenatti.

24 Count Two charges Mr. Avenatti with attempted
25 extortion. The government claims that Mr. Avenatti attempted

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1 to extort Nike by threatening economic and reputational harm to
2 Nike if it did not make multimillion dollar payments to
3 Mr. Avenatti.

4 Count Three charges Mr. Avenatti with what is known as
5 honest services wire fraud. The government claims that
6 Mr. Avenatti engaged in a scheme to defraud one of his clients
7 of that client's right to Mr. Avenatti's honest services.

8 According to the government, Mr. Avenatti used
9 confidential information supplied to him by his client to
10 demand that Nike pay Mr. Avenatti millions of dollars and that
11 he did so without his client's knowledge and to his client's
12 detriment.

13 The charges in the indictment are merely allegations.
14 They are proof of nothing.

15 Mr. Avenatti has pled not guilty to these charges. He
16 is presumed innocent and before he could be found guilty on any
17 charge the jury would have to conclude that the government has
18 proven each element of that crime beyond a reasonable doubt.

19 We are using a jury questionnaire to assist us in
20 picking a jury. The questionnaire will be distributed to you
21 in just a moment. The purpose of the questionnaire is for you
22 to provide information to myself, to the prosecutors, defense
23 counsel, and to the defendant to assist all of us in
24 determining whether you can be a fair and impartial juror in
25 this case.

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1 You must give true and complete answers to every
2 question. The questionnaire asks, among other things, whether
3 you have read, seen, or heard anything about Mr. Avenatti or
4 the charges against him and whether you will follow my
5 instructions to decide this case based solely on the evidence
6 that will be presented in this courtroom.

7 It is critically important that the jurors' verdict be
8 based solely on the evidence that will be offered and received
9 in this courtroom and not on what might have been written or
10 said in the press or someplace else about Mr. Avenatti.
11 Nothing that has been said or written about Mr. Avenatti in the
12 past matters at all for purposes of this trial.

13 In our country we don't try people in the press or
14 over social media. Instead, we rely on people like you to
15 listen carefully to the evidence presented here in the
16 courtroom, as well as the judge's instructions on the law, and
17 then come to a verdict that is based solely on that evidence
18 and on that law.

19 The questionnaire also provides information concerning
20 the expected length of the trial as well as the schedule for
21 the trial and asks whether the length or schedule for the trial
22 would prevent you from serving as a juror.

23 Please do keep in mind that jury service is one of the
24 most important obligations of being an American citizen and
25 that all jury service involves some measure of inconvenience.

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1 I will tell you now what the rules are for completing
2 the questionnaire. First, please enter your name and juror
3 number on the front page of the questionnaire and at the top of
4 each page. Please print your answers to the questions in blank
5 ink. Where indicated, please check the space for yes or no
6 and, as requested, provide answers, explanations, or details on
7 the lines that are provided.

8 Please don't leave any question unanswered. You must
9 provide full and accurate information in response to each
10 question. If you don't understand a question, please write, I
11 don't understand. Please do not write on the back of any page
12 of the questionnaire.

13 Please don't leave the room while you are completing
14 the questionnaire. If you need to use the restroom, please
15 hand the questionnaire to one of the clerks and then retrieve
16 it upon your return.

17 Please don't discuss the questions in the jury
18 questionnaire or your answers with anyone, including your
19 fellow prospective jurors. It is extremely important that your
20 answers be your answers and that your answers not be influenced
21 by those around you.

22 During the jury selection process it is critically
23 important that you not read anything about the case, that you
24 not discuss it with anyone, that you not let anyone talk to you
25 about the case, and that you do not do any research about the

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1 case on the Internet or anyplace else. If you are selected for
2 the jury, I will have more instructions for you later on this
3 topic.

4 If you wish your answers to remain confidential and
5 that they not go beyond the judge, counsel, and the defendant,
6 because the answers would subject you to embarrassment, please
7 so indicate at the end of the questionnaire. Again, please
8 write your name and juror number at the top of each page of the
9 questionnaire and don't forget to sign the questionnaire at the
10 end.

11 Ladies and gentlemen, thank you for your service.
12 Once you complete the filling out of the questionnaire, you are
13 free to leave for the day. You must report again tomorrow at
14 9:30 a.m. in this courtroom. Thank you very much.

15 Mr. Ruocco, would you please distribute the
16 questionnaires and the pens necessary to complete the
17 questionnaires.

18 MR. H. SREBNICK: Your Honor, while that is done, may
19 the lawyers approach the bench.

20 (Continued on next page)

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1 (At sidebar)

2 MR. H. SREBNICK: Judge, I thought it might make sense
3 for the jury to see Mr. Avenatti. Some people might not
4 recognize the name just by the name, but they might recognize
5 his face, his appearance. That's all.

6 THE COURT: Seems like it makes sense.

7 MR. PODOLSKY: Sure.

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1 (In open court)

2 THE COURT: Mr. Avenatti, would you please just stand
3 and face the jury panel so they can see you.

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Thank you, Mr. Avenatti.

6 THE DEFENDANT: Thank you, your Honor.

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1 (At sidebar)

2 THE COURT: I would like to continue our discussion in
3 room 705. What I have in mind is all of us segue out the door
4 over here, and then you are welcome to take the public
5 elevators up to 705. I'll meet you there and we will continue
6 our discussion.

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1 (In open court)

2 THE COURT: I will continue my discussion with the
3 lawyers with pretrial matters in courtroom 705. As I said to
4 the members of the jury panel, you are free to leave once you
5 complete the questionnaire, and we will resume with the jury
6 panel at 9:30 tomorrow morning.

7 (Recess)

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1 AFTERNOON SESSION

2 4:00 p.m.

3 THE COURT: For the record, let me say that we
4 distributed 120 jury questionnaires this morning. They were
5 completed by the panel members and the purpose of this session
6 this afternoon is to go through the questionnaires that present
7 problems.

8 By my count we have 35 clean questionnaires. In other
9 words, 35 questionnaires that don't present, at least to me,
10 any issues. That leaves 85 that have problems of one sort or
11 another.

12 What we are going to do now is go through the ones
13 that have problems and, where possible, reach agreement on
14 jurors who should be excused without further questioning.

15 What I am going to do is just walk through the
16 questionnaires. If somebody thinks I've missed one, you will
17 let me know.

18 But the first questionnaire that has a problem is
19 juror no. 2. Juror no. 2 says that he has seen Mr. Avenatti on
20 TV and in the news. He also mentions he has seen him in the
21 context as a lawyer representing clients. He says he can put
22 that aside. What I intend to do with respect to juror no. 2 is
23 question him further.

24 Next, juror no. 4. Juror no. 4 reports that she has
25 seen that he was arrested on fraud charges. She says in

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1 response to the question, can you put that out of your mind,
2 she says no. I don't know whether that's a mistake, or it's
3 without explanation. Generally speaking, when people write no
4 in response to question No. 3, they explain why they couldn't
5 put it out of their mind. This person doesn't. It requires
6 further explanation.

7 Juror no. 5. Juror no. 5 is one of the jurors who
8 says they can't be fair and, specifically, juror no. 5 says, in
9 response to question 3 that I was just talking about: From the
10 information I have seen, I don't believe I could be impartial
11 in passing judgment. And there are other problems with juror
12 no. 5 also.

13 What do the lawyers say about excusing juror no. 5?

14 MR. STABILE: Your Honor, we would agree that juror
15 no. 5 should be dismissed for cause.

16 THE COURT: What does the government say?

17 MR. SOBELMAN: Your Honor, just because this is the
18 first one we are approaching, we just want to have a sense of
19 the Court's willingness to question further. We do think there
20 are a number kind of similar to this where there is kind of a
21 short, I've read things about it, I am not sure I can be fair.
22 If the person were here, we would probably encourage the Court
23 to inquire further to probe their views. I think that's our
24 inclination on this.

25 THE COURT: Let me tell you sort of what my

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1 perspective is. My perspective is, there are people who say
2 they've seen information about Mr. Avenatti in the news, but
3 they can put it aside. We would have to explore with them what
4 exactly they have seen, and we would have to receive assurance
5 from them that they can put it out of their mind. That's sort
6 of one bucket.

7 Second bucket is, I've seen a certain amount of
8 material about him in the news. It might be challenging for me
9 to put it out of my mind, but I try to do my best or things of
10 that sort.

11 And then there is people that flat out say, I don't
12 think I can be fair. This falls in the category of flat out, I
13 don't believe I can be fair.

14 And the other point about juror no. 5 is, she says:
15 I'm heavily reliant on tips. If I don't show up to work, I
16 don't make money and it is a financial burden to me to be away
17 from work for this period of time.

18 I will tell you, in every case, not just this one,
19 that where someone is reliant on tip income, and I'm being
20 asked to hold a two and a half week trial where they won't have
21 any other income, setting all the other problems aside, I would
22 likely excuse the person. That's why it doesn't seem to me to
23 be efficient to have the person come in. If the lawyers want
24 me to have her come in, I'm happy to question further. I just
25 want you to understand that's my practice. Where people tell

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1 me they are reliant on tip income in order to pay their rent, I
2 generally don't make them serve as a juror.

3 MR. SOBELMAN: We agree with respect to the financial
4 hardship, and we are fine with the Court excusing this juror on
5 that basis.

6 THE COURT: Juror no. 5 will be excused.

7 Juror no. 6. Juror no. 6 says that they are a single
8 parent of two middle schoolers. Juror no. 6 also has their own
9 business where they need to be from 9 to 2. The juror also
10 reports that the juror has a broken foot at the moment for
11 which there is a scheduled doctor's appointment this Friday.

12 Then in response to question No. 4, the juror says,
13 and I quote: My father was part of a lawsuit that had
14 something to do with extortion and bribery. I can't read the
15 word before extortion and bribery. But the father was involved
16 in a lawsuit that raised issues of extortion and bribery. I
17 feel that it may make it difficult for me to be impartial in
18 this case.

19 Same point. I'm happy to have the person come in and
20 talk with them further about their problems as well as their
21 father's role in a case that involved extortion and bribery. I
22 just wonder if that's an efficient use of our time.

23 What does the government say?

24 MR. SOBELMAN: We have no objection to excusing this
25 juror.

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1 MR. STABILE: Consent, your Honor.

2 THE COURT: Juror no. 6 is excused.

3 Juror no. 8. Juror no. 8 reports that the juror has
4 read a lot about Mr. Avenatti's representation of Stormy
5 Daniels and related matters in the past. The juror also
6 reports that the juror is involved in editing news stories
7 about Nike, the Nike situation. I'm having a little trouble
8 reading.

9 Does anyone have better luck reading the response to
10 question No. 2?

11 MR. SOBELMAN: Your Honor, not much better. I think
12 it says reading news stories about Nike, not editing.

13 THE COURT: That could be.

14 MR. SOBELMAN: The government's view on this juror is
15 that it would be worth bringing that person in to have some
16 additional questioning to clarify, especially in light of their
17 answer to question 3 that they could be fair.

18 THE COURT: I agree. We will bring them in.

19 Juror no. 9. Juror no. 9, in response to the
20 question, have you heard, read, or seen anything about Michael
21 Avenatti, responds yes. And then the juror writes: I followed
22 the confirmation process of Justice Brett Kavanaugh. All of
23 the media covered it. I don't know if Mr. Avenatti took a
24 position against Mr. Kavanaugh. Maybe he did. I don't know.

25 MR. S. SREBNICK: He did, actually. It was very

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1 public and he represented a woman named Julie Swetnick who had
2 made allegations and it was very controversial.

3 THE COURT: I'll ask her more.

4 Juror no. 11. Juror no. 11 reports that she has seen
5 headlines that Mr. Avenatti was charged with fraud. She says
6 that she can put that out of her mind. So my intention is to
7 question her further.

8 Juror no. 12 in response to question 2 says: I have
9 heard the name in general, news items, but did not really pay
10 much attention to them. Same approach. I will speak with that
11 juror further to confirm that nothing they have read will
12 prevent an impediment to them being a fair and impartial juror.

13 Juror no. 13 presents a number of issues. The juror
14 reports that he has some work travel scheduled. He says that
15 he has followed the news about Mr. Avenatti closely,
16 particularly with respect to Stormy Daniels. He says he is
17 less familiar with the Nike case. In response to the question,
18 is there anything about the nature of the charges in the case
19 or the alleged factual circumstances that would make it
20 difficult for you to be a fair and impartial juror, the juror
21 answers yes, and then reports that his spouse is the CEO of a
22 nonprofit organization, currently battling false and defamatory
23 allegations. And then I have some trouble. It says, with
24 payment being pursued, and then it says, while not textbook
25 extortion, many of the methods employed by the antagonist feel

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1 like a shake down/extortion. The episode continues and is
2 taking a toll on my wife. And then the juror also indicates
3 that it would be difficult for him to follow my instruction not
4 to read news accounts about the case and his answer is: It's
5 potentially difficult because his line of work is investing,
6 and he is constantly tied to news sources, and he says it would
7 be difficult to say whether he could wholly avoid the news.

8 I think the main problem with juror no. 13 is the
9 response to question 4 in which he says that his wife is the
10 CEO of a nonprofit that's involved in litigation that I guess
11 he and his wife regard as a shakedown and that it's imposed a
12 psychological toll on his wife.

13 What do the lawyers think?

14 MR. SOBELMAN: Your Honor, we see the issue. We do
15 think it would be worth having the juror be subject to some
16 questioning about the contours and the details of that, but we
17 understand the issue.

18 MR. STABILE: Your Honor, we believe this juror has to
19 be removed for cause. There is no rehabilitating this juror
20 with his wife suffering from what he considers an extortionate
21 or semiextortionate threat. And also the inability to follow
22 the Court's instructions and not pay attention to the news.
23 There are enough jurors who don't have issues like this that we
24 don't think we should keep this juror, your Honor.

25 THE COURT: I am going to excuse juror no. 13.

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1 Juror no. 14 responds to the question, have you read
2 or seen or heard anything, responds: Just general information
3 about what occurred from sport media outlets like ESPN, such as
4 the potential fraud and who was involved (Nike and
5 Mr. Avenatti). The juror says that the juror is willing to put
6 out of his mind what he has read. So, therefore, I will be
7 questioning the juror further.

8 Juror no. 16 reports that she is in a new job and two
9 and a half weeks would present a difficulty for her. She goes
10 on to say: I have heard of him. I have heard of Mr. Avenatti
11 as a lawyer for Stormy Daniels and also that he may have
12 considered running for president at one time. She says she is
13 willing to put out of her mind whatever she has read. So I'll
14 question juror no. 16 further.

15 Juror no. 18, in response to question have you heard
16 anything about Mr. Avenatti, he responds: I heard that
17 Avenatti was being accused of trying to extort money from Nike.
18 In response to No. 3 he writes: I have a bias against Nike for
19 the behemoth organization they are and the manner in which they
20 cater to the elite athletes. The juror also reports that he is
21 the athletic and security director of a local high school and
22 he is responsible for, he says, 2,000 students and faculty on a
23 daily basis and he doesn't have any assistant, etc.

24 What is the government's view?

25 MR. SOBELMAN: Your Honor, this juror says he can't be

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1 fair and provides a compelling or substantive reason for that,
2 and we take that at face value and think this juror should be
3 struck.

4 THE COURT: What does the defense say?

5 MR. STABILE: Consent.

6 THE COURT: Juror no. 18 is excused.

7 Juror no. 19. Juror no. 19 reports that she has heard
8 about Mr. Avenatti but doesn't have any of the details of the
9 charges against him. She says she will put out of her mind
10 whatever she has read. I'll question juror no. 19 further.

11 Juror no. 21 says that she recognizes his name from
12 reading the New York Times, but I don't recall any of the
13 details. She is also willing to put what she has read out of
14 her mind. So I will question her further.

15 Juror no. 22 writes at length about the fact that they
16 are a sole proprietor of a business that has no employees.
17 They have travel obligations, specific commitments that can't
18 be rescheduled. The juror reports that he has seen
19 Mr. Avenatti on television a number of times representing -- he
20 says representing Michael Cohen, if I'm not mistaken. He is
21 mistaken. I think he writes he has heard about the case on
22 television, though he doesn't have a specific recollection of
23 Mr. Avenatti's -- I can't read the next word. The juror says
24 he is willing to put what he has read out of his mind. I
25 suspect the main problem with juror no. 22 is he goes on at

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1 great length about how this would be a hardship on him, given
2 that he is a sole proprietor that has no employees.

3 What does the government say about juror no. 22?

4 MR. SOBELMAN: We defer to the Court's view on the
5 financial hardship. We do think that's the only issue at this
6 point.

7 MR. STABILE: Defense consents based on hardship.

8 THE COURT: I'll excuse him. Juror no. 22 is excused.

9 Juror no. 24 reports that she has time-sensitive
10 commitments at work that have to do with ratings of bonds and
11 the length of the trial would make it difficult for her to meet
12 her work commitments. She is also speaking at a conference in
13 Austin, Texas the third week in February and must submit her
14 slides by February 14. I would be inclined to speak further
15 with her. First of all, given the time schedule we have set, I
16 expect the case to be over by the third week in February. I am
17 going to question her further.

18 Juror no. 25. Juror no. 25 reports that last year on
19 TV or radio maybe once or twice he heard something about
20 Mr. Avenatti. He says he also heard that we were picking a
21 jury today. I'll question juror no. 25 further.

22 Juror no. 27 reports that she heard about Avenatti's
23 name, nothing about the case. She is willing to put it out of
24 her mind. So I'll question her further.

25 Juror no. 29. She says that she has a full-time job

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1 and that the other manager she works with is on vacation. She
2 herself has vacation plans from February 6 to February 11. And
3 she complains that she was told that the jury service would
4 only last two weeks. My inclination would be to have her in
5 and talk with her more about the vacation.

6 Does anyone disagree?

7 MR. SOBELMAN: No, your Honor.

8 MR. STABILE: Your Honor, if she is not going to be
9 here, I am not sure. For people, let's say, that they are on
10 vacation, I don't know --

11 THE COURT: When someone says that they are on
12 vacation I usually explore with them, did you buy tickets to
13 something, are your tickets refundable, etc. That's my
14 standard. It may well be that I end up excusing her, but I
15 just feel like I probably need to ask her a few more questions.

16 MR. STABILE: OK.

17 THE COURT: Juror no. 31. Juror no. 31 recalls that
18 Mr. Avenatti represented a woman who was accusing Donald Trump
19 of sexual misconduct. He says: I don't have any personal
20 judgment about Mr. Avenatti as a lawyer or as a person, but my
21 impression of him, and this might be only what was promoted by
22 Mr. Trump, is that he is opportunistic. In response to the
23 question, can you put out of your mind anything you may have
24 read, seen, or heard about Mr. Avenatti, the juror answers no
25 and writes the following: The fact that Mr. Avenatti has been

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1 so visible in the media could possibly be a distraction for me.
2 And in response to question No. 4, would it be difficult for
3 you to be fair and impartial, the juror answers yes. And then
4 in response to the question, can you follow the Court's
5 instructions not to read about the case, the question is, would
6 that present any difficulty for you, the juror answers yes.
7 And the juror writes: I'm employed as an associate
8 producer/senior animator at CBS News. It is possible that if
9 CBS News covers this story that I could be exposed to details
10 of the trial.

11 What do people think about juror no. 31?

12 MR. STABILE: Consent to excusing this juror.

13 MR. SOBELMAN: The government agrees.

14 THE COURT: 31 is excused.

15 33. The juror indicates they have read quite a bit
16 about Mr. Avenatti in connection with his representation of
17 Stormy Daniels. Also about the charges in this case. He said
18 that he has followed it as much as he follows regular current
19 events. He says: I've also been aware of media accounts of
20 Mr. Avenatti interacting with President Trump. In response to
21 the question, can you put it out of your mind, he answered no.
22 He writes: Based on the various accounts that I have read
23 about Mr. Avenatti of his various business dealings, it would
24 be difficult for me to render an unbiased decision solely on
25 the information presented at trial, and he goes on in a similar

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1 vain that it would be difficult for him to be fair and
2 impartial. And then in response to the question, will you
3 follow the Court's instructions not to read about the case, he
4 responds to the question, would it be difficult for you to
5 follow this rule he answers no, but then he writes: If asked,
6 I would do my best. However, as my regular job involves me
7 utilizing the Internet, I might accidentally read an account.
8 I would do my best not to. The juror basically indicates they
9 have read a fair amount about Mr. Avenatti and then it would be
10 difficult for them to make an unbiased decision.

11 What does the government say?

12 MR. SOBELMAN: We would consent to excusing this
13 juror.

14 MR. STABILE: Consent.

15 THE COURT: Juror no. 33 is excused.

16 Juror no. 34. Juror no. 34 reports that she has read
17 about and seen news stories and Mr. Avenatti himself on TV. I
18 know that he was the lawyer for Stormy Daniels and that he's a
19 vocal critic of President Trump and the Trump administration.
20 I have followed Mr. Avenatti on social media. I have also read
21 and heard about this case and the accusations against
22 Mr. Avenatti. In response to the question, can you put what
23 you have read out of your mind, the juror answers no. She
24 writes as follows: I think it would be difficult. I have
25 read, heard, and seen a lot about this case and feel that I

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1 have preconceived notions about Mr. Avenatti's reputation as a
2 high-profile vocal and brash (smart, though) lawyer. The juror
3 goes on to report that a close family friend works at Nike and
4 the two of them haven't discussed the case or Mr. Avenatti in
5 any way, but as a result of that relationship, she tends to
6 think of Nike as a reputable company, and, accordingly, she
7 feels there must be some truth to the allegations against
8 Mr. Avenatti.

9 Government's view.

10 MR. SOBELMAN: We would consent to excusing this
11 juror.

12 MR. STABILE: Consent.

13 THE COURT: 34 is excused.

14 35 reports that she has seen some news reports
15 regarding the case. That's all she writes. She says she put
16 it out of her mind. I'll question her further.

17 Juror no. 36. Juror no. 36 reports that he follows
18 the NCAA and other sports and is aware of the under-the-table
19 deals by Nike for endorsements and says: So a case like this
20 is a connection. In response to the question, can you put what
21 you've read out of your mind, the juror answers no and writes:
22 It would be difficult to put my bias on the college
23 endorsements industry. I have strong opinions about the NCAA
24 players being paid for their services, and these crimes are
25 upon an unjust system of collegiate athletes. The juror

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1 expresses fairly strong views.

2 What does the government say?

3 MR. SOBELMAN: The government would consent to
4 excusing this juror.

5 MR. STABILE: Consent.

6 THE COURT: 36 is excused.

7 37 reports that she has airline tickets and a
8 vacation scheduled for Saturday, February 15, 2020. That's the
9 only problem. My inclination, as I've said, is to explore with
10 the jurors whether there is any flexibility and so that's what
11 I am going to do.

12 Juror no. 38. Juror no. 38 has a vacation scheduled
13 also. More importantly, juror no. 38 has heard that
14 Mr. Avenatti is accused of extortion, read an article about it
15 on Facebook. In response to the question, can you put what you
16 have read out of your mind, the answer is no. And the juror
17 writes: I have closely watched Mr. Avenatti defend Stormy
18 Daniels on Rachel Maddow. I feel that I would be biased for
19 Mr. Avenatti. In response to the question is there anything
20 about the charges in the case or the alleged factual
21 circumstances that would make it difficult for you to be fair
22 and impartial, the juror says yes and writes: As mentioned
23 previously, I have watched Mr. Avenatti defend Stormy Daniels
24 and feel I may be biased for him.

25 What does the government say?

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1 MR. SOBELMAN: The government would consent to
2 excusing this juror.

3 MR. STABILE: Consent.

4 THE COURT: Juror no. 38 is excused.

5 Juror no. 39. Juror no. 39 reports that she has read
6 an article online about the charges. She is capable of putting
7 it out of her mind. In response to the question, is there
8 anything about the charges or the factual circumstances that
9 would make it difficult for you to be fair and impartial, the
10 juror says yes and gives the following explanation: My opinion
11 on Mr. Avenatti, I don't think he is true to his word. His
12 other appearances on TV, I think he likes the attention, and he
13 looks all about the money. And the juror indicates that it
14 would be difficult for her to follow my rules about reading
15 about the case outside of court, and she writes: My opinion on
16 the defendant is really strong. I think he is capable of all
17 the charges.

18 What is the government's view?

19 MR. SOBELMAN: The government would consent to
20 excusing this juror.

21 MR. STABILE: Consent.

22 THE COURT: 39 is excused.

23 40. Juror no. 40 reports that he is familiar with the
24 Stormy Daniels case from the news. He reports that he will put
25 that out of his mind. There is no other problem, so I will

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1 question juror no. 40 further.

2 Juror no. 41. Juror no. 41 says he is a clinical
3 social worker psychotherapist. The bulk of his income comes
4 from private practice and it would be a financial hardship.
5 Also mentions that he would not be able to respond to his
6 clients' needs. With respect to exposure to news reports says:
7 As to news reports that he has paid vague attention. He was
8 not aware of the specific charges but that it involved some
9 kind of fraud. He says he can put that out of his mind. No
10 other issues. My inclination would be to speak with him
11 further.

12 42. Juror no. 42 reports that she is employed by New
13 York 1 News as the station's senior manager of news gathering.
14 Beyond media coverage of Michael Avenatti, specific to this
15 case I have monitored coverage of his work with client Stormy
16 Daniels. In my role at New York 1 I have received documents
17 specific to this case from the Southern District press office.
18 New York 1 journalists have covered Mr. Avenatti at length.
19 New York 1 journalists will likely be assigned to cover this
20 trial. She says that she can't put out of her mind what she
21 has read and she writes: I am already familiar with the
22 defendant through my work and do not feel like I can be
23 entirely partial.

24 What is the government's view?

25 MR. SOBELMAN: The government consents to excusing

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1 this juror.

2 MR. STABILE: Consent.

3 THE COURT: 42 is excused.

4 43 reports that he has read about the case in the
5 daily papers and he has also seen Mr. Avenatti on TV. He says:
6 I also work at Eyewitness News and have edited stories about
7 Mr. Avenatti. I think it would be hard to be impartial. I
8 think that he's guilty. He goes on to write: Besides this
9 case, I have read about the Stormy Daniels case and a case
10 involving someone in a wheelchair. There seems to be a lot of
11 cases where his clients never received any money. It would be
12 hard to find him innocent. I could not be impartial.

13 Government's view?

14 MR. SOBELMAN: The government consents to excuse this
15 juror.

16 MR. STABILE: Consent.

17 THE COURT: 43 is excused.

18 49 writes: I know he threatened to tank the
19 stock price of Nike. I believe there are also domestic abuse
20 allegations that have been against him as well. There are
21 other problems.

22 Government's view on 49?

23 MR. SOBELMAN: The government consents to excuse this
24 juror.

25 MR. STABILE: Consent.

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1 THE COURT: 49 is excused.

2 50 reports that her grandmother is dying in
3 hospice, that she will most likely need to travel out of town
4 for funeral services within the next two weeks. She is also a
5 teacher and the length of the trial would be a hardship for her
6 students and herself.

7 What is the government's view?

8 MR. SOBELMAN: The government consents to excuse this
9 juror.

10 MR. STABILE: Consent.

11 THE COURT: 50 is excused.

12 51 writes: I heard he tried to con money from
13 Nike, says that she can put that out of her mind. So I am
14 going to question 51 further.

15 54 reports he heard about it on the news, says he
16 is willing to put it out of his mind. No other problems. I'll
17 talk with 54 further.

18 55 reports that he is going on a family vacation on
19 February 13. With respect to the question, have you read
20 anything, he writes: As a generally famous person,
21 Mr. Avenatti's trial has been written about by both local
22 papers as well as by national sports platforms. I have read
23 about the allegations on both types of publications, including
24 ESPN, the New York Post.

25 MR. STABILE: Deadspin.

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1 THE COURT: Deadspin. Thank you. And others.

2 He says he can put it out of his mind. I think the
3 question is the family vacation. I'll have to explore that
4 with the juror.

5 MR. SOBELMAN: Your Honor, I note it's after the time
6 period that we expect the trial to run. That's after the third
7 week.

8 THE COURT: The 13th is the third week.

9 MR. SOBELMAN: It's the Thursday of the third week.

10 THE COURT: You are quite right. That might help.

11 MR. STABILE: Your Honor, we would suggest that
12 between the vacation and his extensive reading about this case,
13 we would move to remove this juror for cause.

14 MR. SOBELMAN: Your Honor, our view is this person
15 certainly requires follow-up questioning but that there is not
16 a basis to remove the juror at this stage, based on the answers
17 that have been given.

18 THE COURT: I am going to talk with him further.

19 56 says that they are going on vacation February 21.
20 I don't think that's a problem. In response to, have you read
21 anything, the answer is yes. Everything possible. Heard,
22 read, seen. Cable, New York Times, Google, social media,
23 willing to put that out of their mind. In response to the
24 question, is there anything about the nature of the charges in
25 this case or the alleged factual circumstances that would make

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1 it difficult for you to be fair and impartial, the answer is
2 yes. And then in the explanation writes: Certainly to be
3 explained in detail. Seems to be a detailed case. It's hard
4 for me to read what the juror is writing. In any event, my
5 inclination would be to talk further with the juror to find
6 out, first of all, to confirm with them that they can put aside
7 what they have read and then have a better understanding of
8 what their answer was to question No. 4, much of which I can't
9 read.

10 Juror no. 57 has some financial hardship issues, has
11 read, heard, and seen reports about Mr. Avenatti on the news,
12 online, social media, etc., knew about the charges against him.
13 She says: I have read and seen allegations being brought
14 against him from a former client who had accusations against
15 President Trump. I have also read articles regarding these
16 recent criminal charges of extortion against the defendant.
17 She says she can put it out of her mind. She also writes that
18 in response to the question, is there anything about the
19 charges or the factual circumstances that would make it
20 difficult for you to be fair and impartial, she says yes. Then
21 she explains: I previously worked at a company at which Nike
22 was one of our clients.

23 What is the government's view?

24 MR. SOBELMAN: Your Honor, the government would be
25 inclined to have her come in and clarify some of these issues.

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1 We think the only real issues presented in the questionnaire is
2 the financial hardship. If the Court thinks that's sufficient
3 to excuse the juror now, then the government defers to the
4 Court on that, but on the other issues the government thinks
5 that follow-up questions would be helpful in order to
6 understand what is happening and what she has read or seen.

7 MR. STABILE: Your Honor, this juror is identifying
8 question No. 2 that she has specific information about one of
9 the other criminal cases against Mr. Avenatti. That's
10 different than having general knowledge about hearing him in
11 the newspaper where we agree that jurors like that should come
12 in. When a juror has specific knowledge of criminal cases that
13 have nothing to do with this criminal case, we think that juror
14 should be removed for cause.

15 (Continued on next page)

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1 THE COURT: What does the government say?

2 MR. SOBELMAN: Your Honor, the government just doesn't
3 read it that way. It is not clear. It might be the case, it
4 might not be. A separate issue is whether we are going to
5 excuse anyone who has simply heard about one of the other cases
6 against the defendant, which the government's view is that that
7 alone would not be sufficient, particularly just to find space
8 in a questionnaire. So the government would be inclined that
9 the Court ask some additional questions.

10 MR. STABILE: But it is not just that. Nike is also
11 one of her clients. She has a hardship. I mean, there are
12 multiple factors, but as to question 2, that is one specific
13 factor. But looking at the questionnaire in total, we think
14 this juror should be excused for cause, your Honor.

15 THE COURT: I agree. I think, first of all, there are
16 multiple problems with this juror, but what she brings to the
17 table, which I'm not sure I've seen in any other questionnaire,
18 is knowledge of the other criminal case pending in this
19 district against Mr. Avenatti. So I'm excusing Juror No. 57.

20 Juror No. 58. Juror No. 58 basically doesn't know
21 anything more than what I said in the introduction this
22 morning, says that he could put it out of his mind. So I'll
23 question Juror No. 58 further.

24 Juror No. 59 just writes "financial hardship" with no
25 explanation. Then writes that they have read about the

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1 accusations in social media and seen reference to them on TV.
2 Then the juror writes, in response to question 3, would you be
3 able to put it out of your mind, the juror says no, and writes,
4 "Mr. Avenatti doesn't seem credible. I have a difficult time
5 believing him.

6 Government's view?

7 MR. SOBELMAN: Your Honor, we consent to excusing this
8 juror.

9 MR. STABILE: Consent.

10 THE COURT: 59 is excused.

11 60. So there are a couple of ambiguities on 60, and
12 it is hard to know what the person meant. In response to the
13 question number 1, would the schedule for the trial be a
14 problem, he checks off "yes" but also circles "no," so I guess
15 "yes" was a mistake. I don't know.

16 And then similarly with respect to question 4, started
17 to write that their father consulted for Nike, then scratched
18 that out and writes that they retract the statement.

19 Anyway, I don't think there is a problem with this
20 juror. I just need to ask some questions.

21 Juror No. 61. Juror No. 61 writes, "I may potentially
22 be getting a job offer that would require me to start in
23 February. With the potential length of this trial, it would be
24 difficult to make that commitment and give proper two weeks
25 notice to my current employer."

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1 So I'm going to talk further with Juror No. 61.

2 Juror No. 63 saw TV reports that Mr. Avenatti tried to
3 extort money from Nike. He'll put that out of his mind. So
4 I'll question her further.

5 Juror No. 27.

6 MR. STABILE: I'm sorry. Did you say Juror No. 27?

7 THE COURT: I'm sorry. I don't know why I said that.

8 64. Sorry. Juror No. 64, Brian Cohen.

9 Juror No. 64 is orthodox, needs to be home early on
10 Fridays. Writes that he has been following the matter in The
11 New York Times, Wall Street Journal and mainstream media. "I'm
12 also familiar with the defendant's representation of Stormy
13 Daniels and followed that matter carefully." The juror says he
14 can put that out of his mind. Then the juror says that he
15 could be fair and impartial, but then writes: "I need to
16 confirm that I don't have a conflict. I need to confirm that
17 my law firm does not represent Nike or any of it's affiliates
18 in a related matter."

19 And then, finally, the juror says that it would be
20 difficult to follow the rules about not reading about the case
21 because he commonly reads the paper, but then he writes: "I
22 won't be able to avoid exposure to the case." I don't
23 understand that. I really don't understand that.

24 So my inclination is to have him in and talk with him.

25 MR. RICHENTHAL: I think that's right. I would just

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1 also note, I cannot speak to the contours of this person's
2 religious observance, but, generally speaking, sundown these
3 days is after 5 p.m. and obviously will be coming a minute or
4 two later each evening, so I don't think that is an issue. But
5 we agree, his arguments with respect to the media question
6 would need to be explored.

7 MR. STABILE: We think the juror should be excused for
8 cause, your Honor, only because of question number 5, where the
9 juror says, "I won't be able to avoid exposure to the case." I
10 understand there is some ambiguity, but that last statement
11 seems clear that the juror doesn't think he would be able to
12 follow the Court's instructions.

13 THE COURT: Yes. What I'm saying is I don't
14 understand that this person's a lawyer. I'm going to tell them
15 you can't read the paper about the case. They can't follow
16 that? So if they're going to tell me they can't follow that
17 instruction, I'm going to need to explore that. I'm going to
18 need to understand why a lawyer cannot follow a judge's
19 instruction not to read stories about the case because I don't
20 understand that. So I'm going to be pursuing that further with
21 the juror.

22 Juror No. 65 says that she read several months ago
23 something about the case on a local news program. She says she
24 could put it out of her mind, so I'll confirm that with her
25 tomorrow.

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1 Juror No. 66. Juror No. 66 reports that her
2 94-year-old father is being recognized by the State of Alabama
3 on February 6th, and that it would be necessary for her to
4 leave on February 5th to get to Birmingham for the celebration.

5 What do people say about Juror No. 66?

6 MR. RICHENTHAL: I would note that February 5th is the
7 middle of the second week of trial. I think something like
8 someone's 94th celebration of some kind seems sufficiently
9 unique that we would consent to excusing this juror.

10 MR. STABILE: We agree. Consent.

11 THE COURT: 66 is excused.

12 68 reports that he's a middle school teacher, missing
13 two-and-a-half weeks would have a negative effect on his
14 students. In response to the question can you follow the rules
15 not to read about the case, the juror writes it would be
16 difficult and says: Have difficulty? Sure. It would
17 certainly be a temptation to research. I would hope, however,
18 to overcome those temptations."

19 So I'm inclined to speak further with Juror No. 68.

20 69 has an important business meeting the week of
21 February 3rd. It sounds like it is a monthly meeting. In
22 response to question number 4 about whether there is anything
23 about the nature of the charges or the alleged factual
24 circumstances that would make it difficult for you to be fair
25 and impartial, the the juror answered yes and writes: "I don't

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1 have specific details about this particular case. However,
2 I've read similar other cases on the Internet. These cases
3 sound very similar/related."

4 So my inclination is to speak further with Juror No.
5 69.

6 74 has a trip to Florida planned on
7 February 10th through 12th. She also needs to be home on
8 Friday afternoon before sunset. So the problem with her is the
9 trip to Florida. So my inclination will be to talk to her more
10 about that.

11 Juror No. 75 writes that he saw on TV that
12 Mr. Avenatti was involved in Nike payment scandal, also read
13 about it on the Internet, has also seen Mr. Avenatti on TV in
14 connection with other cases. "I have followed the case of
15 payments and have followed the resulting convictions by plea to
16 several assistant coaches." So it sounds like the juror has --
17 the juror followed the Adidas case, that's what it sounds like.

18 In response to the question can you put out of your
19 mind what you've seen, answers: "no. Saw extensive coverage
20 of Mr. Avenatti. Most cast him in a negative light. Hard to
21 eliminate familiarity with information."

22 what is the government's view?

23 MR. RICHENTHAL: In light of the answer to number 3,
24 we consent to excuse this juror.

25 MR. STABILE: Consent.

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1 THE COURT: 75 is excused.

2 76 says she's a senior partner in an optician
3 business. There are only two people that work there. It would
4 create a serious hardship.

5 In response to "Anything about the nature of the
6 charges and the factual circumstances make it difficult for you
7 to be fair and impartial," answer "Yes." She writes, "I
8 personally met and have a great deal of respect for Laker
9 legend Kobe Bryant who recently died in a helicopter crash in
10 California. The possibility that Mr. Avenatti could have
11 extort money and blackmail Nike for alleged payment to highly
12 ranked high school basketball prospects is very bothersome to
13 me and I'm not sure I could be impartial."

14 And then in response to the question will you follow
15 the court's rules, would it be difficult for you, answers
16 "Yes," and the explanation is: "Because I am a naturally
17 curious person who loves to read and learn as much information
18 as possible."

19 What does the government say?

20 MR. RICHENTHAL: I think in light of the content of
21 this person's answers, further exploration would be
22 appropriate. That said, we've consistently taken the view that
23 if someone says that he or she can't be impartial, we do not
24 object to excusing that juror, so we're not going to change
25 that view here. But these answers do seem different, much more

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1 general, frankly not entirely responsive to the questions, and
2 we think if an exception were to be made, this is probably the
3 juror for whom it should be made.

4 MR. STABILE: Your Honor, we think this person should
5 definitely be excused for cause. Question number 4, she
6 responds: "I am not sure I could be impartial." And then
7 she's saying she is a naturally curious person. We just -- I
8 don't think there is any rehabilitating this person further.

9 THE COURT: Look, let me say that I suspect what's
10 really going on here is the juror doesn't want to serve.
11 That's what I actually think is going on. But the answers are
12 the answers, and they raise a significant question in my mind
13 as to whether the juror is willing to follow the Court's
14 instructions and for that I'm going to have to excuse her. So
15 76 is excused.

16 77 reports that she works in political media.
17 She has been following the case since it first broke. She
18 understands from media reports Mr. Avenatti attempted to
19 blackmail Nike for \$22 million in exchange for not pursuing a
20 case against Nike's payments to the high school athletes.

21 She writes, in response to the question can you put it
22 out of her mind, she says no. And she writes, "As I said, I
23 work in political media. Michael Avenatti is a controversial
24 and unethical person. His association with Stormy Daniels was
25 a ticket to stardom for him, and CNN was eager to help him to

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1 become a media darling because of his attacks on President
2 Trump. He started to believe his own hype and thought he was
3 above the law."

4 And then she writes that she's married to a TV
5 reporter and it would be impossible for her to completely
6 insulate herself from the news.

7 Government's view?

8 MR. RICHENTHAL: We of course consent to excluding
9 this juror.

10 MR. STABILE: Consent.

11 THE COURT: 77 is excused.

12 79 writes that she has read and seen things on
13 the Internet and on TV about Mr. Avenatti. She doesn't recall
14 the details of the charges but remembers that he was Stormy
15 Daniels' lawyer when she came forward with her Trump stories.
16 And then she writes: "And then I feel like they had a public
17 falling out, where she may have accused him of ... unfavorable,
18 if I recall."

19 So she has some recollection that while Mr. Avenatti
20 represented Stormy Daniels, the relationship ended and she then
21 made accusations against him. She does say she's willing to
22 put that out of her mind.

23 What's the government's view?

24 MR. RICHENTHAL: We think this juror should be
25 questioned further. She not just says that she can put this

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1 out of her mind, it is not clear what is in her mind. She uses
2 the word "unfavorable," which is obviously not a positive word,
3 but it is a reasonably modest negative word. She doesn't seem
4 to recall the nature of what the falling out was. This seems
5 like precisely the kind of juror for which we just need more
6 information in order to make an informed decision.

7 MR. STABILE: Your Honor, for the same reason as the
8 previous juror who had specific information about a number of
9 cases involving Mr. Avenatti, we think that this juror should
10 be excused for cause.

11 MR. RICHENTHAL: This is --

12 THE COURT: There are obvious differences. So the
13 juror that we discussed previously clearly had knowledge of the
14 second criminal case. This one doesn't indicate that she does.
15 So I agree with the government that it requires more
16 questioning.

17 Juror No. 80. Juror No. 80 says: "I have an
18 appearance in this court, Southern District of New York, as an
19 attorney on February 7th that I would have to seek to adjourn
20 or seek counsel to cover for me."

21 I don't think that is going to be a problem.

22 As to whether the juror has read anything about
23 Mr. Avenatti, writes: "I don't recall much. The introduction
24 here refreshed my recollection that I have heard or read about
25 the allegations." The juror reports that he will put out of

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1 his mind whatever it is that he did read. So I will bring him
2 in to question him further.

3 Juror No. 81 writes, among other things, that:
4 Michael Avenatti is a notorious scumbag who is willing to do
5 anything, including lie and cheat, in order to enrich himself
6 and gain public attention."

7 Government's view?

8 MR. RICHENTHAL: This juror should be excused.

9 MR. STABILE: Consent.

10 THE COURT: 81 is excused.

11 82. 82 reports that he has evening classes at
12 Westchester Community College every Tuesday at 6.

13 As to whether he has read anything about Mr. Avenatti,
14 he says: "all I've read about him is that he's a lawyer who
15 defended a woman that brought suit against the President of the
16 United States." the juror is willing to put that out of his
17 mind. No other problems. So I'll speak further with Juror No.
18 82.

19 83. She says that she runs a nonprofit. She can't be
20 out for two-and-a-half weeks. She has read about Mr. Avenatti
21 in The Times. She will put it out of her mind. So I'll talk
22 further with Juror No. 83.

23 84 says that he heard on the news Mr. Avenatti
24 attempted to extort money from Nike. He will put it out of his
25 mind. No other issues. I'll speak with him.

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1 Juror No. 85 says that she has some medical
2 appointments coming up. Also, she has heard over the news the
3 allegations against Mr. Avenatti. She said, "I have come to a
4 strong opinion as to his character going back prior to this
5 case, when he was representing Stormy Daniels." She feels that
6 he is not an upstanding individual and that he is a
7 grandstander. She writes, "In my opinion, he should not
8 practice law any further." She goes on and on.

9 The government's view on 85?

10 MR. RICHENTHAL: 85 should be excused.

11 MR. STABILE: Consent.

12 THE COURT: 85 is excused.

13 86 says that she's required to return to work in
14 Los Angeles. As to what she's read, she said she's read
15 extensive reporting from the New York Times, the LA Times, The
16 Wall Street Journal, other TV and print media. She writes, "I
17 understand him to be a lawyer who represented Stormy Daniels in
18 a case against President Trump." She writes, "I also
19 personally hold opinions about his character and his work. I
20 have read and watched many pieces of media regarding this case
21 and have already formed an opinion."

22 She writes further: "I'm familiar with and hold
23 strong beliefs about all of the involved parties. I'm a former
24 NCAA athlete. I own many Nike products and have a firm brand
25 loyalty for multiple personal reasons."

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1 goes on to write: "I have strong opinions about the
2 defendant. I have thousands of dollars invested in Nike."

3 the government's view?

4 MR. RICHENTHAL: We have some concern that this person
5 is trying to get out of jury service. However, in light of the
6 content of the answers, we believe this juror should be
7 excused.

8 MR. STABILE: Consent.

9 THE COURT: 86 is excused.

10 88 writes: "I saw him interviewed on CBS about
11 Stormy Daniels and subsequently heard about federal charges
12 against him, but I don't remember the specifics of the news."

13 No other problems. I'll speak further with Juror No.
14 88.

15 Juror No. 93. In response to the question what have
16 you read or seen about Mr. Avenatti, she says: "Can't remember
17 details. I remember hearing something about it." Says she'll
18 put it out of her mind. Tells us that she wears Nikes. I'll
19 speak further with Juror No. 93.

20 Juror No. 94 teaches full-time high school, part-time
21 at CUNY, worried about missing classes, is a sports fan, heard
22 that Avenatti was charged with some kind of extortion attempt,
23 is prepared to put it out of his mind.

24 So the main problem I think is the conflict with his
25 work. I'll have to pursue that with him further. He will

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1 likely be excused given his work obligations.

2 What are the lawyers' views on him, Juror No. 94?

3 MR. PODOLSKY: Your Honor, I'm sympathetic to the
4 hardship here. On the other hand, we are looking for a
5 cross-section of jurors, and I am a little reluctant to say
6 that just because someone is a teacher, they should be excused
7 out of hand. So I would inquire further. But I do understand
8 there is a hardship concern here.

9 MR. STABILE: Your Honor, we think it is so likely
10 that he's going to be excused anyway tomorrow, we might as well
11 excuse him.

12 THE COURT: I don't disagree with you but I will
13 question him further. It does seem like I will end up excusing
14 him, but I will ask him more questions.

15 Juror No. 95 writes that he has a five-day trip coming
16 up in about a week. The trip is nonrefundable. As to stories
17 that he's read, he writes: "I've seen many stories that
18 painted Mr. Avenatti once presumed to be innocent to now be
19 guilty based on new evidence. I've also seen coverage that is
20 most often negative when it comes to his past client Stormy
21 Daniels and her claims against Donald Trump." He goes on to
22 write: "It would be nearly impossible to put this behind me
23 after years of media exposure to Mr. Avenatti, his clients, and
24 the multiple allegations against him for this case and others."

25 Government's view?

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1 MR. PODOLSKY: I believe that this person doesn't want
2 to serve on this jury and I am reluctant to reward that, but it
3 does seem nearly impossible to think that person will be
4 rehabilitated.

5 MR. STABILE: Consent.

6 THE COURT: 95 is excused.

7 96 reports that she's leaving for a business trip
8 on the 17th of February. That doesn't seem like a problem. So
9 I'll just speak to her about that.

10 In response to question number 4, which is, "Is there
11 anything about the nature of the charges or the alleged factual
12 circumstances that would make it difficult," doesn't answer yes
13 or no, writes: "Not sure. My husband is a lawyer and a close
14 friend from business school, works in finance at Nike. I don't
15 know anything about this case, though. She has never mentioned
16 it."

17 So I'll speak further with the juror.

18 Juror No. 97 reports: "I've read several articles
19 online regarding the charges against the defendant. I've also
20 read many articles and have seen Michael Avenatti speak on the
21 TV regarding the Stormy Daniels case versus Donald Trump."

22 Also writes: "I was inundated with items in the press
23 regarding Mr. Avenatti's representation of Miss Daniels, but I
24 think it highly unlikely that the image I have of Mr. Avenatti
25 will not cloud my judgment in this" case -- "in this matter no

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1 matter how hard I try to ignore it."

2 Government's view?

3 MR. PODOLSKY: Candidly, your Honor, I don't think
4 this answer is actually sufficient to strike for cause, but he
5 does say that he can't follow the Court's instructions and I
6 don't want to waste everyone's time, so we would defer to the
7 Court on this juror.

8 MR. STABILE: Your Honor, we believe this juror really
9 should be removed for cause just based on question number 3,
10 that the juror believes that the image he has of Mr. Avenatti,
11 it is unlikely that that won't cloud his judgment no matter how
12 hard I try to ignore it. It just -- we think this juror should
13 go for cause.

14 THE COURT: I will excuse Juror No. 97.

15 Juror No. 98 has a family vacation booked starting on
16 February 8th. Is also going to Austin, Texas. Says it will be
17 extremely difficult on his wife if she has to take their two
18 young kids by herself.

19 That's the only issue. What do the lawyers think?

20 MR. PODOLSKY: Well, your Honor, we have taken the
21 approach of questioning about vacations. I will say this is
22 fairly concrete, so it is hard to imagine how this person is
23 going to be able to serve on the jury. So this one we wouldn't
24 object to removing, but if your Honor thinks it is worth
25 questioning, of course that's fine for the government as well.

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1 MR. STABILE: We would join that this does seem very
2 specific and concrete and it is so unlikely that this person
3 would be able to change their plans that we agree this juror
4 should be removed for hardship.

5 THE COURT: Yes, it doesn't sound like somebody who is
6 trying to come up with an excuse. It sounds like a trip that
7 has in fact been planned and there are two young children
8 involved, and it just seems highly unlikely that after speaking
9 with the person I'm going to keep them here. So I think what
10 I'm going to do is excuse Juror No. 98.

11 Juror No. 99 writes that she recalls seeing
12 Mr. Avenatti from the Stormy Daniels case, saw him on
13 television on talk shows, and she has a recollection of other
14 allegations made against him independent of the Stormy Daniels
15 case. She is willing to put that out of her mind.

16 So I'm going to have her come in. I'm going to ask
17 her more about what she recalls seeing about Mr. Avenatti.

18 Juror No. 100. Juror No. 100 writes that she is a
19 teacher of first grade. Two-and-a-half weeks away from her
20 class, she says, is too long an absence and would have a
21 negative effect on her students.

22 In response to whether there is anything about the
23 charges or the factual circumstances that would make it
24 difficult for her to be fair and impartial, she answers yes.
25 Then she writes: "I do not have a lot of knowledge in business

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1 situations, laws, economics, extortions, etc."

2 I mean, the problem is I can't excuse every teacher.
3 I mean, I don't necessarily disagree that for a teacher to be
4 away from her class for two-and-a-half weeks is going to have a
5 negative effect on the class. I suspect that's true, sadly.
6 But I can't excuse every teacher on that basis. So my
7 inclination is to have her come in and talk with her.

8 Juror No. 101, in response to question 4, "Is there
9 anything about the charges or the factual circumstances that
10 would make it difficult to be fair and impartial," she answers
11 yes, and writes: "I knew of a person who have faced similar
12 circumstances," and also indicates that they's have trouble
13 following the rules about not reading about the case. And
14 writes: "I find it difficult to follow these rules based on
15 the fact that the news is frequently played everyplace I
16 attend, along with people I know that will discuss around me
17 what they have seen and heard."

18 So I'll have the person come in and talk to them about
19 their issues.

20 102. 102 writes that she has chronic back pain, is
21 concerned about whether she can sit, but she is willing to make
22 an effort. I think we can do things to accommodate her. I
23 have had other jurors that have had back problems. We take
24 breaks when necessary, and if they find it more comfortable to
25 stand for a bit, they can do that, too. So I'm confident we

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1 can address Juror 102's problems.

2 Juror No. 103 says that they're leaving the country
3 February 8th, cannot be changed.

4 I'll have to talk with Juror No. 103.

5 105. 105 has some kind of I guess maybe -- maybe
6 medical exams, I don't know. She says she's studying for
7 boards currently and will be scheduled to take exam next month.

8 I'll have to talk with her about that.

9 Juror No. 106. Juror No. 106 says that she's
10 self-employed, has to watch the markets closely throughout the
11 day. She's a private investor. Her income depends on the
12 markets. Two-and-a-half weeks being away from her business
13 would subject her to risk given the current volatility in the
14 market. She writes, "Loss of income would be a major setback
15 for me." She writes, "I've been doing this for many years and
16 I've never been away for two-and-a-half weeks. I'm a one-woman
17 show only."

18 In response to the question have you read anything,
19 she answers yes. She writes, "His name has come up in a social
20 gathering, and the people who were present there talked about
21 his personal business dealings."

22 Would she be able to put out of her mind what she has
23 heard? She answers no. Then she writes: "I'm not sure I
24 could have been exposed to certain biases."

25 In response to, "Is there anything about the nature of

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1 the charges or the factual circumstances that would make it
2 difficult to be fair and impartial," she writes, "Yes." Then
3 she says, "I'm not sure but, as I said, his name was a topic
4 brought up in a social gathering. I could have been exposed to
5 certain biases about him."

6 What does the government think about 106?

7 MR. PODOLSKY: This potential juror is being very
8 introspective in acknowledging that she can't be aware of all
9 of her own biases, but I don't think that is a sufficient basis
10 to strike her for cause. I think we need to follow up with
11 some questions. She hasn't actually identified any reason that
12 she can't be fair or impartial in this case.

13 As far as the hardship, I just think it is nonspecific
14 and requires additional questions.

15 MR. STABILE: Your Honor, this juror writes quite
16 extensively in question number 1 about financial hardship. But
17 if that were not enough, question 3, the juror indicates that
18 she could not follow the Court's instructions to put such
19 information completely out of her mind inside the case based
20 solely on the evidence presented at trial, and then does seem
21 to equivocate and write "I'm not sure." And for question 4
22 also writes, "I'm not sure as to whether there is anything
23 about the nature of the charges that would make it difficult to
24 be a fair and impartial juror." I mean, this type of
25 equivocation, coupled with the financial hardship, we think

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1 makes this juror unqualified to serve, and we move to dismiss
2 this juror for cause.

3 THE COURT: Yes. I don't find persuasive her very
4 vague suggestion that she was exposed to something. Whatever
5 it was she was exposed to, she can't even tell us what it is.
6 So I'm actually not convinced she was ever exposed to anything.
7 She certainly doesn't want to sit because she feels like it
8 would interfere with her business. I think I'm going to have
9 to have her come in and ask her more questions.

10 107 writes: "Generally familiar with name. No
11 details, though. Zero knowledge of Nike-related allegations or
12 any other criminal allegations." So I'll bring in Juror No.
13 107 to talk further, but I don't see any problems with that
14 juror.

15 108 has a flight on Friday, February 1st, go out of
16 town for the weekend. She says she could try to push it back
17 if the case goes longer. She is also scheduled to leave the
18 country on vacation February 21. I don't think that will be a
19 problem.

20 As to what she's read, she writes: "I've read some
21 top-line headlines and quick summaries about the Nike story,
22 but was not aware of Michael Avenatti specifically or the exact
23 charges I read from a variety of news sources." She is willing
24 to put that out of her mind. So I'll bring her in and talk
25 further with her.

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1 109. 109 writes: "I've read newspaper accounts and
2 television reports of this case specifically and of
3 Mr. Avenatti generally." When asked whether he can put what he
4 has read out of his mind, he answers no and writes: "That
5 would be challenging given the preconceived ideas and views
6 that I have based on the media accounts of this case." I won't
7 attempt to be -- "I would attempt to be impartial but it would
8 likely be challenging."

9 The juror goes on to write, in response to the
10 question, "Is there anything about the nature of the charges or
11 the factual circumstances that would make it difficult for you
12 to be fair and impartial," the juror answers yes, and writes:
13 "In addition to seeing media accounts of this case and of
14 Mr. Avenatti, which I have noted previously, I am a registered
15 AAU basketball coach. I've coached AAU basketball
16 intermittently for the past seven years. My experiences and
17 observations about AAU and youth basketball generally may make
18 it challenging for me to be an impartial juror."

19 Government's view?

20 MR. PODOLSKY: I think this is an appropriate strike
21 for cause, your Honor.

22 MR. STABILE: Consent.

23 THE COURT: Juror No. 109 is excused.

24 110. He says that he read the newspaper reports when
25 the story broke in March 2019 and that he reads most stories

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1 regarding Nike. He goes on to write: "I have biases towards
2 Nike. I believe Nike is very unethical when it comes to making
3 their products, but this does not stop me from purchasing those
4 products and supporting the company. I also have difficulty
5 taking preconceived notions out of my mind. I also find it
6 very believable that a lawyer would try to extort money from a
7 corporation like Nike."

8 In response to the question, "Is there anything about
9 the nature of the charges or the factual circumstances that
10 would make it difficult for you to be fair and impartial," the
11 juror answers: "Yes, I have preconceived notions that he is
12 guilty from what I previously read." Also says it would be
13 difficult for him to avoid reading materials about the case.

14 Government's view?

15 MR. PODOLSKY: There is a little something for
16 everyone here, but I think this juror should be struck for
17 cause.

18 MR. STABILE: Consent.

19 (Continued on next page)

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1 THE COURT: 110 is excused.

2 113. 113 reports that she is a busy physician, has
3 patients scheduled for the next two weeks, and then she is
4 going to be on vacation February 17, February 21. She has read
5 about the case. She says she has seen things on the TV news
6 about the charges involving Nike and about Mr. Avenatti's
7 representation of Stormy Daniels, as well as occasional TV
8 interviews of him. My inclination would be to question her
9 further.

10 114. 114 is an attorney that reports that he is
11 engaged in matters across the State of New York. Also that he
12 has been exposed to very general information about his arrest
13 and the charges, nothing specific. I'll bring the juror in and
14 talk more with them.

15 Juror no. 115 reports that two and a half weeks would
16 be a lot of work to miss. As to what she has read writes: I
17 have read some New York Times reporting on the matter. I don't
18 remember the particulars. I'll speak fourth with the juror.

19 Juror no. 117 reports that the juror has plane tickets
20 to Greece for a 30th anniversary. Can't be postponed. Reports
21 that they work as a teacher and there is a set week of vacation
22 in February. I assume this is President's week, meaning the
23 week of February 17, so it should not be a problem. But I will
24 confirm that with the juror. As to what the juror has read,
25 the juror writes: I only have heard general information about

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1 payments paid to basketball prospects. I'll talk with the
2 juror about the trip to Greece. The juror also did not answer
3 question No. 4. I will pursue that as well.

4 Juror no. 118. Juror no. 118 reports that he has a
5 pending criminal case in the Bronx. That's in response to the
6 question, would you have any problem sitting from 9:30 to 5
7 every day.

8 What do people think I should do with juror no. 118?

9 MR. PODOLSKY: Your Honor, I suppose it is somewhat
10 nonspecific, and we can ask him further. I do think if he has
11 criminal appearances in the Bronx during the pendency of this
12 trial, it may make it difficult for him, A, to attend and, B,
13 to focus on the charges here. But it is not totally clear what
14 the schedule is there.

15 Frankly, I don't really see a real particular chance
16 that this person is going to serve on this jury, though.

17 MR. STABILE: We agree. This is a little vague. We
18 might as well bring him in.

19 THE COURT: Juror No. 119 reports that she is a
20 clinical psychologist with responsibility for patients.
21 However, if she were selected, she would make the necessary
22 arrangements. I don't see any issue with her.

23 Juror no. 120, concern about child care. With respect
24 to what she has read, is aware of his prior representation of
25 Stormy Daniels, is aware of the current fraud allegations. In

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1 response to the question about whether she could put out of her
2 mind what she has read, She answers no. She writes: I would
3 make my best effort to follow the Court's instruction.
4 However, I cannot 100 percent guarantee that my prior knowledge
5 would not impact my thought process when deliberating.

6 So the juror has a five-year-old child. That's her
7 child care obligation. And she is worried about whether she
8 can find someone to pick up the child from school for the
9 entire two and a half week period.

10 What does the government say?

11 MR. PODOLSKY: Your Honor, I think this potential
12 juror should be brought in for further questioning. I can see
13 the potential hardship. It's not clear from the answer,
14 though, whether it will be a hardship or to what degree.

15 As far as the response regarding question 3, I see
16 answers like this before. I don't think the right standard is
17 whether she can 100 percent guarantee that it would not impact
18 my thought process. I think the question is whether she can be
19 fair and impartial. We are not asking a guarantee of anything.
20 I think she should be brought in and asked if she can be fair
21 and impartial in this case.

22 MR. STABILE: Your Honor, she is being asked the
23 question in question 3. In light of what you may have read,
24 seen, or heard about Mr. Avenatti, would you be able to follow
25 the Court's instruction and put any such information completely

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1 out of your mind and decide this case based solely on the
2 evidence presented at trial. She marks no and then says: I
3 cannot 100 percent guarantee that my prior knowledge would not
4 impact my thought process when deliberating. But as a juror I
5 disagree. She does have to 100 percent guarantee. If she were
6 to give this answer, your Honor, during live voir dire, she
7 would not be sitting as a juror, and there is no rehabilitating
8 her based on this answer. She is telling the Court, she is
9 being honest that she cannot guarantee her impartiality to this
10 Court. She cannot be a juror for that reason.

11 THE COURT: I will question her further.

12 Is there anything else that we should discuss before
13 we break for the evening?

14 MR. PODOLSKY: Not for the government, your Honor.

15 MR. S. SREBNICK: May I inquire. I think the
16 government, we have a couple of matters that we need to try to
17 work out, one being the California bar, the expert type issue,
18 and then the financial issue with Mr. Regnier. I think we are
19 going to talk further about that. I have to talk with
20 Mr. Avenatti. I have to review in more detail the written
21 submission from the government this morning, which I have not
22 had a chance to digest and speak with him.

23 My question would be to the Court and really I guess
24 to the government is, how soon is that issue going to need to
25 be resolved?

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1 THE COURT: Which issue?

2 MR. S. SREBNICK: Both the California bar and the
3 financial issue, because there is limited time and we need to
4 talk about it.

5 MR. RICHENTHAL: Taking them in order, with respect to
6 the California bar, Mr. Sobelman had a prior court obligation
7 and he is the one opening. I'm confident, I think, in what I'm
8 about to say.

9 I don't believe he intends to open with respect to any
10 matter relevant to the California bar.

11 My understanding is he does intend to open in a
12 limited manner with respect to Mr. Avenatti's debts consistent
13 with what your Honor has ruled is clearly coming in. The
14 contours of that, I recognize the margins may change. I don't
15 think he is going to approach those borders.

16 If what Mr. Srebnick is really asking is witness
17 order, we are not entirely sure past the first few, although we
18 have a pretty good sense.

19 What I would propose is that we confer with the
20 defendant, as we have done generally productively, and make
21 sure that things are teed up as they come in. I think both
22 parties have done a pretty good job trying to do that.

23 MR. S. SREBNICK: Fair enough.

24 THE COURT: Anything else?

25 MR. PODOLSKY: Schedule for tomorrow, your Honor. 110

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1 at 10 a.m. again?

2 THE COURT: I told the jury to be there at 9:30, so we
3 are going to actually start at 9:30.

4 Just to be clear, we will begin by addressing the
5 jurors whose questionnaires has raised questions. The ones we
6 talked about today that we didn't excuse, I am going to speak
7 with them individually one by one. That's going to take a
8 while. And once we complete that, we will pick up with the
9 regular voir dire.

10 MR. H. SREBNICK: Your Honor, question. We read your
11 order, but some of us have not had the experience of how you
12 have us apply peremptory challenges.

13 THE COURT: The government gets six. The defendant
14 gets 10. I will qualify all the panel members that have
15 survived this process, and then I will hear any additional
16 challenges for cause up at the bench, and I will rule on those
17 challenges. And then I will tell the jury that we are going to
18 take a break for about 15 minutes or so, and then I will ask
19 the lawyers to prepare their list of the jurors against whom
20 they wish to exercise peremptory challenges. So the defense
21 will prepare a list of 10, the government will prepare a list
22 of six. Those lists will be submitted simultaneously. I will
23 then read to the lawyers who has been excused. We will agree
24 on who are the 12 lowest numbered jurors that have survived
25 that process, and then we will turn to the selection of

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1 alternates.

2 We are going to be choosing three alternates. Each
3 side has one peremptory challenge. So it will be the same
4 process. You will figure out the one peremptory challenge you
5 have as to alternates, and you both will submit a piece of
6 paper that has the number of that juror on it, and I will tell
7 you who has been excused, and we will agree upon who are the
8 next three lowest number jurors, and they will be our
9 alternates.

10 MR. H. SREBNICK: Does the Court permit any lawyer
11 voir dire?

12 THE COURT: No.

13 MR. H. SREBNICK: Question from the defense table. If
14 there is overlap in the challenges, so -- I am not great at
15 math, but it could be that defense proposes 10 and they turn
16 out to be the same as the six government.

17 THE COURT: Which has never happened and is highly
18 unlikely to happen here. Anyway, the answer is, it has no
19 effect. It just means the juror is excused by both sides.
20 That's all. It will have no effect other than that.

21 Anything else?

22 MR. H. SREBNICK: That's it, Judge. Thank you.

23 MR. PODOLSKY: Sorry. I don't want to belabor this.
24 My understanding is we are going to end the trial day at 4:30.
25 One thing I note about the large courtroom downstairs, there

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1 are no witness rooms or breakout rooms for the parties. In my
2 experience, that often causes the longer breaks. I was just
3 trying to get a sense of what the Court intends to do so we can
4 prepare our witnesses in terms of breaks and lunch breaks and
5 so on.

6 THE COURT: We will take a break usually around 11,
7 11:15, something like that. It will be probably 15 minutes,
8 and then we will break at 12:45 or so. We will take an hour
9 for lunch, and then we will resume and take a break around 3:15
10 or 3:30, and then we will go until 4:30.

11 MR. PODOLSKY: Thank you very much, your Honor.

12 MR. STABILE: Can I ask one more procedural question,
13 your Honor. The order that the jurors are in, their juror
14 numbers, do they remain in that order or is there going to be
15 another reshuffling?

16 THE COURT: What is going to happen, I think, and I
17 don't have my deputy here and he is the one that really does
18 this, but I think what we are going to do is, he will seat the
19 jury tomorrow and then we will fill in -- we won't be in this
20 courtroom. We will be downstairs. There are three rows of
21 seats downstairs and so he will fill in all those rows. So
22 there will be no openings. And then he will go to the pews and
23 he will fill the pews, and so there won't be any spaces. Even
24 though we have excused all these people, the numbers will be
25 different because we will have holes now.

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1 MR. STABILE: In other words, I guess my question is,
2 let's just say No. 5 is the first surviving juror. No. 5 will
3 be first.

4 THE COURT: Yes. The order won't change. No
5 reshuffling. When we start tomorrow morning he will just read
6 the name and tell the person to take seat No. 1, and then we
7 will go all the way through. So they will be in the same
8 order. It's just that obviously we have lost some people along
9 the way.

10 MR. STABILE: Thank you.

11 MR. RICHENTHAL: One more final thing. The parties
12 previously agreed, I think the Court knows this, that we would
13 exchange any visuals or exhibits that we might publish during
14 our opening. I can represent the government has no such
15 visuals. Mr. Srebnick has said that he does, both a Power
16 Point and potentially some exhibits. We have not received them
17 yet. We understand that maybe because he may be altering it in
18 light of some rulings or commentary this morning. We respect
19 that. Hopefully, we receive it promptly.

20 In the event that we have an issue, we will confer
21 with the defense as quickly as we can. If that issue remains,
22 obviously, that would have to be dealt with before opening.

23 What we would propose, if it's OK with your Honor,
24 maybe we e-mail your Honor's chambers or your Honor's law clerk
25 this evening in the event that there is a dispute. I hope

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1 there isn't, and we have been working pretty well together, but
2 I did want to let the Court know that we have not received
3 those yet, so we can't fully represent whether we are
4 comfortable with them.

5 THE COURT: I understand. As a practical matter, we
6 are going to be spending a lot of tomorrow on the jury
7 selection process. But I hear what you are saying.

8 Yes. As soon as you know there is an issue, let me
9 know, and it may be that we can meet a little bit early
10 tomorrow to talk about it. If there is going to be an issue,
11 please let me know. It may be that we try to address it even
12 before the jury shows up at 9:30.

13 MR. S. SREBNICK: May I have until 8 p.m. to submit
14 the revised --

15 MR. RICHENTHAL: As long as we do, too, we obviously
16 don't object to it.

17 THE COURT: Yes. Your application is granted.

18 Anything else?

19 MR. H. SREBNICK: Judge, are we doing openings
20 tomorrow?

21 THE COURT: To be quite honest with you, I don't know.
22 That raises a question of how long they are going to be. Do
23 you know how long Mr. Sobelman is going to be?

24 MR. PODOLSKY: I think it's in the give or take 20
25 minutes, your Honor.

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1 MR. H. SREBNICK: I think I will be longer than that,
2 probably over 30 minutes.

3 THE COURT: Given the length of those openings, I
4 think it's realistic to think that we could have the openings
5 tomorrow. We are going to burn a lot of time tomorrow because
6 I am going to have to -- this whole stack, this represents the
7 jurors I am going to have to talk with. That's going to take
8 time before I even get to the regular voir dire questions. We
9 are going to burn through a lot of time tomorrow. But given
10 that the government's opening is 20 and you think you are
11 around half an hour, I think it's likely we are going to get to
12 the openings tomorrow.

13 MR. PODOLSKY: Your Honor, we obviously want to make
14 sure we have our first witness available when it's time to
15 start testimony. Do you think that we should have a witness
16 available tomorrow afternoon? We certainly can. It didn't
17 seem realistic to me or likely that we will get there.

THE COURT: I don't think it's realistic, honestly.

19 MR. PODOLSKY: Thank you, your Honor.

20 THE COURT: Anything else?

21 We will resume at 9:30 tomorrow unless I hear from you
22 otherwise.

23 (Adjourned to January 28, 2020, at 9:30 a.m.)

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